

UNITED STATES DISTRICT COURT
for the

Western District of Virginia

CLERK'S OFFICE U.S. DIST. COURT
AT LYNCHBURG, VA
FILED

for D'Uille
AUG 08 2008

JOHN F. CORCORAN, CLERK
BY: *J. Dealee*
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United States of America
v.

JOHNNY OTIS DILLARD

Date of Previous Judgment: May 18, 2005
(Use Date of Last Amended Judgment if Applicable)

)
Case No: 4:03cr70134-004
USM No: 10214-084
Defendant's Attorney

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of the defendant the Director of the Bureau of Prisons the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

IT IS ORDERED that the motion is:

DENIED. GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months is reduced to _____.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level:	Amended Offense Level:
Criminal History Category:	Criminal History Category:
Previous Guideline Range: _____ to _____ months	Amended Guideline Range: _____ to _____ months

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- The reduced sentence is within the amended guideline range.
- The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- Other (explain): _____

III. ADDITIONAL COMMENTS

Defendant was convicted of conspiracy to distribute cocaine base ("crack") in violation of 21 U.S.C. § 846 and at sentencing was held responsible for 4.5 kilograms or more of crack. Although Amendment 706 to the U.S. Sentencing Guidelines reduced the offense levels for most crack convictions, it did not reduce the offense levels for those involving at least 4.5 kilograms of crack. See U.S.S.G. § 2D1.1(c). Accordingly, Defendant's guideline range is not changed by the amended guidelines, and he is therefore not eligible for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2).

Except as provided above, all provisions of the judgment dated _____ shall remain in effect.

IT IS SO ORDERED.

Order Date: August 8, 2008

Norman K. Moon

Judge's signature

Effective Date: _____
(if different from order date)

Norman K. Moon, United States District Judge

Printed name and title